

BEFORE THE  
POSTAL RATE COMMISSION

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

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COMPLAINT ON POST E.C.S.

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DOCKET NO. C99-1

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FOURTH MOTION OF UNITED PARCEL SERVICE  
TO COMPEL UNITED STATES POSTAL SERVICE  
TO ANSWER INTERROGATORIES  
UPS/USPS-44 AND UPS/USPS-45  
(July 22, 1999)

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Pursuant to Section 25(d) of the Commission's Rules of Practice, United Parcel Service hereby moves that the United States Postal Service be ordered to respond in full to interrogatories UPS/USPS-44 and UPS/USPS-45 within seven days of the Presiding Officer's ruling, on the grounds set forth herein.'

**ARGUMENT**

These interrogatories ask the Postal Service to state the number of PostECS messages or document deliveries addressed to a foreign top level domain, and whether the Postal Service will license for PostECS service a potential user with a foreign top level domain e-mail address. The Postal Service objects on the grounds of "vagueness," relevance, burden (in the case of Interrogatory 44), and commercial sensitivity ("in part") (in the case of Interrogatory 45). United States Postal Service

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1. Copies of these interrogatories are attached hereto as Exhibit "A."

Objection to United Parcel Service Interrogatories UPS/USPS-44-45 (July 12, 1999)  
("Objection") at 1, 2.

The vagueness objection is based on the claim that UPS has not defined the term "foreign top level domain." We are somewhat surprised that the Postal Service, which seeks to be a major force in e-commerce and electronic communications, does not know the meaning of this term, which has wide usage in the e-commerce industry. However, in order to cure this objection, we here define the term "foreign top level domain" for the Postal Service: "Foreign top level domain" means a top level domain other than .com, .gov, .org, .net, .edu, .us, and .mil. That disposes of the vagueness objection.

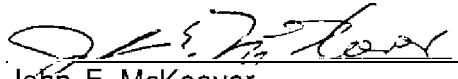
As to relevance, these interrogatories go to the Postal Service's claim that PostECS does not have a domestic component that falls within the Commission's jurisdiction. UPS intends to argue that all PostECS messages or document deliveries addressed to an e-mail address that does not have a foreign top level domain in the domain name of the address are domestic transactions subject to the Commission's jurisdiction. These interrogatories are designed to determine whether, and the extent to which, any PostECS messages or document deliveries are addressed to recipients with non-foreign top level domain e-mail addresses, as well as the extent to which "international" transactions are in fact handled by *the Postal Service*, as opposed to Canada Post or LaPoste. For example, if only messages sent to an e-mail address with a foreign top level domain in the address are international (as opposed to domestic), and if all such transactions are referred to and fully handled by the foreign posts and not by the Postal Service, then all of the Postal Service's PostECS transactions are domestic.

The Postal Service also objects to Interrogatory 44 (percentage of transactions involving a foreign top level domain) on the ground of “burden.” Objection at 1. It states that “a subset of all Post E.C.S. messages sent by test participants to recipients could not be identified without undue burden.” *Id.* The Postal Service suggests that it would take 21 person days to prepare a response to this interrogatory. UPS finds it difficult to believe that it is so time-consuming for the Postal Service to locate recipient e-mail addresses in the case of a service which offers as one of its main features an “Electronic Postmark” that, among other things, is said to provide a time and date stamp that assertedly serves as “validation of the time and date that an electronic mail document was received by the Postal Service,” and to “validate the existence of a document.” 61 Fed. Reg. 42219 (August 14, 1996). But even assuming the validity of that estimate, that certainly is not a significant time, in light of the importance of the jurisdictional issue at stake here.

Finally, with respect to Interrogatory 45 (whether the Postal Service on the one hand, or Canada Post or LaPoste on the other, licenses users with a foreign top level domain in the domain name of an e-mail address), the Postal Service claims commercial sensitivity “in part.” Objection at 2. It claims that this information would “give indications of the posts’ marketing strategies to which UPS . . . should not be privy.” *Id.* at 2-3. Again, UPS is not interested in the foreign posts’ marketing strategies as such. Rather, we are interested in determining whether the Postal Service ever actually contracts for the delivery of international messages or document deliveries as part of its PostECS offering. There is nothing sensitive about that.

WHEREFORE, United Parcel Service respectfully requests that the Presiding Officer order the United States Postal Service to answer in full interrogatories UPS/USPS-44 and UPS/USPS-45.

Respectfully submitted,

  
\_\_\_\_\_  
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Of Counsel.

Exhibit A

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BEFORE THE  
POSTAL RATE COMMISSION

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COMPLAINT ON POST E.C.S.

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DOCKET NO. C99-1

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FIFTH SET OF INTERROGATORIES OF UNITED  
PARCEL SERVICE TO UNITED STATES POSTAL SERVICE  
(UPS/USPS-44 AND UPS/USPS-45)  
(June 30, 1999)

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Pursuant to Section 25 of the Commission's Rules of Practice, United Parcel Service hereby serves the following interrogatories on the United States Postal Service:

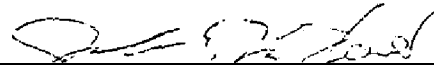
UPS/USPS-44. Through May 31, 1999, or the most recent date for which such information is available, state the percentage of the total number of PostECS transactions by users licensed by the Postal Service that were addressed to a foreign top level domain.

UPS/USPS-45. (a) Will the Postal Service license PostECS, or otherwise enter into an arrangement for PostECS service with, a potential user that has a foreign top level domain in the domain name of its e-mail address?

(b) Has the Postal Service licensed, or entered into an arrangement for PostECS service with, any such user? If so, state the percentage of all PostECS users licensed by the Postal Service which have a foreign top level domain in the domain name of their e-mail addresses.

(c) If an eligible potential user of PostECS has a foreign top level domain name and asks the Postal Service to license the potential user to use PostECS, will the Postal Service license the potential user, or will it refer the potential user to one of the other postal administrations participating in PostECS (or to some other source)?

Respectfully submitted,



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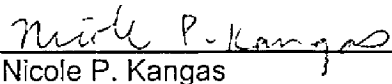
and

1200 19th Street, N.W.  
Washington, DC 20036  
(202) 861-3900

Of Counsel

CERTIFICATE OF SERVICE

I hereby certify that on this date I have caused to be served the foregoing document on all parties to this proceeding by first class mail, postage prepaid, in accordance with Section 12 of the Rules of Practice.

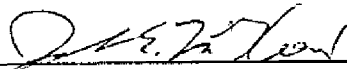
  
\_\_\_\_\_  
Nicole P. Kangas

Dated: June 30, 1999  
Philadelphia, PA



CERTIFICATE OF SERVICE

I hereby certify that on this date I have caused to be served the foregoing document on all parties to this proceeding by first class mail, postage prepaid, in accordance with Section 12 of the Rules of Practice.

  
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John E. McKeever

Dated: July 22, 1999  
Philadelphia, PA